UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:18-cv-00342-MOC-DSC

PANASYSTEM HANDELS GMBH,)	
TM 1 100)	
Plaintiff,)	
Vs.)	ORDER
)	
CLN WORLDWIDE LLC,)	
D 0 1)	
Defendant.)	

THIS MATTER is before the Court on plaintiff's Motion for Claim and Delivery. Non-Party Hexpol Compounding NC Inc. has filed a Stipulation (#23) that, contingent upon this Court granting plaintiff's motion, it would have no ownership interest or claim to any carbon black in the possession of the defendant. It appearing that the goods are perishable, that plaintiff is capable of posting a bond with this Court in an amount twice the value of the goods, and that defendant is now protected from competing claims for the goods, the Court will Order defendant to deliver and make available for removal the disputed goods in it its Statesville, North Carolina warehouse within 24 hours of plaintiff posting such bond.

In addition, the Motion to Compel Arbitration is now ripe. As it appears that the party seeking to enforce the arbitration agreement was not a party to the agreement, that motion will be denied without prejudice. Int'l Paper Co. v. Schwabedissen Maschinen & Anlagen GMBH, 206 F.3d 411, 416 (4th Cir. 2000). Defendant and/or its affiliate (once a party) may reassert such Motion to Compel after the named defendant fully explores joinder under Rule 19, Federal Rules of Civil Procedure. The Court notes that the cost of the bond in this matter may be equal to a

significant portion of the warehouse charges in dispute; thus, the parties are encouraged to work on a resolution where funds are not unnecessarily expended.

ORDER

IT IS, THEREFORE, ORDERED that plaintiff's Motion for Claim and Delivery (#4) is GRANTED, plaintiff shall post a bond issued from an acceptable surety with the Clerk of Court in an amount twice the value of the goods (or a value in a lesser amount if the parties so agree), and within 24 hours of such posting, defendant shall make the disputed goods at its Statesville, North Carolina warehouse available to plaintiff for removal.

IT IS FURTHER ORDERED that the Motion to Compel Arbitration and to Stay the Case (#14) and the Motion to Stay and for Hearing on the Motion to Compel Arbitration (#15) are UNREFFERED and DENIED without prejudice.

IT IS FURTHER ORDERED that the September 11, 2018, hearing is CANCELLED.

Signed: September 11, 2018

Max O. Cogburn Jr United States District Judge